



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-22556-2020

Reserved on : 09.12.2024
Pronounced on : 16.12.2024

R.C. Pahwa

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. Tarun Dhingra, Advocate for the petitioner
(through video conferencing).

Mr. Saurabh Mohunta, D.A.G., Haryana.

Ms. Swati Dayalan, Advocate for respondent No.5.

NAMIT KUMAR, J.

1. The instant petition has been filed by the petitioner under Articles 226/227 of the Constitution of India, seeking a writ of certiorari, quashing the order dated 22.06.2020, whereby the claim of the petitioner for grant of interest on delayed payment of retiral benefits has been rejected. Further, seeking a writ of mandamus, directing the respondents to grant interest @ 12% per annum on the delayed payment of retiral dues of the petitioner from the date of retirement till the date of payment.

2. Brief facts of the case, as have been pleaded in the petition, are that the petitioner retired as Executive Engineer on attaining the age of superannuation on 31.12.2003 from Provincial Division, P.W.D.

B&R, Bhiwani, Haryana. At the time of retirement of the petitioner, 06



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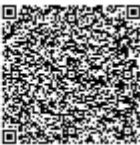
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charge-sheets were pending against him which were concluded from time to time and various recoveries were ordered against him. Since the retiral dues of the petitioner have been released after a considerable delay without any interest, therefore, the petitioner submitted representation dated 24.09.2019, claiming interest on the delayed payment of retiral dues. However, no action was taken on the said representation. Therefore, the petitioner approached this Court by filing *CWP No.4387 of 2020 titled as 'R.C. Pahwa Vs. State of Haryana and others'* which was disposed of by this Court vide order dated 17.02.2020 by passing the following order :-

“Without commenting upon the merits of the controversy or the entitlement of the petitioner to the relief claimed, the writ petition is disposed of by directing respondent No.2 to consider and decide the representation Annexure P-8 dated 24.09.2019 in accordance with law after taking into account all aspects of the matter including the decisions referred to above in case the same are applicable, as expeditiously as possible preferably within a period of 3 months from the date of receipt of certified copy of this Court.”

3. Pursuant to the order dated 17.02.2020, passed by this Court, the representation dated 24.09.2019, filed by the petitioner, was considered by the respondent-department and claim of the petitioner for grant of interest on the delayed payment of retiral dues has been rejected, vide impugned order dated 22.06.2020. Aggrieved against the said order, the petitioner has filed the present petition.

4. Learned counsel for the petitioner has submitted that the petitioner has retired from service on 31.12.2003 and his retiral dues



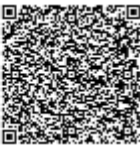
have been released in the year 2010 and 2019. He has further submitted that since the retiral dues of the petitioner have been released after a considerable delay, therefore, the petitioner is entitled to the interest on the same. The retiral dues of the petitioner have been released in the following manner :-

Sr. No.	Particulars	Amount paid (in Rs.)	Date of payment
1.	Leave Encashment	3,84,590/-	26.11.2010
2.	Gratuity	1,60,325/-	25.08.2010
3.	Balance amount of gratuity after deduction of recovery	58,499/-	03.09.2019

5. Per contra, learned State counsel and learned counsel for respondent No.5 have submitted that the delay occurred in releasing the retiral dues of the petitioner was not intentional and it was procedural as at the time of retirement of the petitioner, 06 charge-sheets were pending against him which were concluded from time to time in which punishment of recoveries were also imposed upon the petitioner. Therefore, the petitioner is not entitled for interest on the delayed payment of retiral dues.

6. I have heard learned counsel for the parties and perused the relevant documents with their able assistance.

7. Admittedly, the petitioner retired from service on attaining the age of superannuation on 31.12.2003 and at the time of his retirement, 06 charge-sheets were pending against him which were concluded from time to time and various recoveries were ordered against him. When the retiral dues of the petitioner have been released



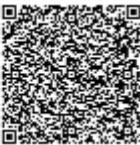
without any interest, he submitted representation dated 24.09.2019 claiming interest on the delayed payment of retiral dues but to no avail. Thereafter, the petitioner approached this Court by filing *CWP No.4387 of 2020 titled as ‘R.C. Pahwa Vs. State of Haryana and others’* which was disposed of by this Court, vide order dated 17.02.2020, with the direction to the respondent-department to consider and decide the representation dated 24.09.2019 filed by the petitioner. Thereafter, the respondent-department passed the impugned order dated 22.06.2020, thereby rejecting the claim of the petitioner. The impugned order dated 22.06.2020 reads as under :-

“Whereas Sh. R.C. Pahwa Stood retired from Govt. Service on attaining the age of superannuation on 31.12.2003 (AN). At the time of retirement following charge sheets were pending against Sh. R.C. Pahwa, E.E. (Retd.) and their decisions/punishment orders are also mentioned as under :-

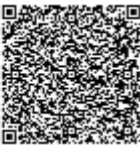
<i>Case No. & Rule of Charge Sheet</i>	<i>Decision</i>
<i>94-IC-A-94 U/R 8 of the Haryana Civil Service (P&A) Rule 1987</i>	<i>Case was decided on 15.09.04 with punishment of Censure vide orders No.8/72/94-1B&R(E) dated 15.09.2004.</i>
<i>69-IC-A-98 U/R 7 of the Haryana Civil Service (P&A) Rule 1987</i>	<i>Case was decided on 14.03.08 with punishment of 5% cut in pension vide Govt. orders Endst. No.8/66/98/1B&R(E) dated 23.12.2007. Thereafter he was approached to Hon’ble High Court vide CWP No.14052 of 2013 and same was dismissed by Hon’ble High Court on dated 11.03.2024. Hence Govt. orders Endst No.8/66/98/1B&R(E) dated 23.12.07 was imposed upon Sh. R.C. Pahwa, EE (Retd).</i>
<i>89-IC-I-A-98 U/R 7 contemplated of</i>	<i>He was placed under suspension vide govt office order Endst. No 8/66/98-1B&R(E) dated 17/18.09.98. and later</i>



<i>the Haryana Civil Service (P&A) Rule 1987</i>	<i>on he was re-instated vide Govt. order dated 19.08.99. Hence he remained under suspension w.e.f. 17/18.09.98 to 19.08.99. His contemplated charge sheet under rule 7 was pending at the time of retirement which was decided vide Govt. office order Endst No 8/66/98-1B&R(E) dated 04.01.2007 and in which suspension period from 17/18.09.98 to 19.09.99 be regularized for all intents and purposes and suspension period was also decided by Govt vide orders No 8/66/98-1B&R(E) dated 11.03.2008 in which suspension period decided as Leave of Kind due. Hence no punishment orders was issued in respect of Sh. R.C Pahwa, EE (Retd) in this case.</i>
<i>111-IC-I-A-98 U/R 7 of the Haryana Civil Service (P&A) Rule 1987</i>	<i>Case was decided on 17.09.09 with punishment of Part recovery of Rs.10,000/- vide Govt. orders Endst No.8/92/03-1B&R(E) dated 17.09.09.</i>
<i>50-IC-II-G-98 U/R 7 of the Haryana Civil Service (P&A) Rule 1987</i>	<i>Case was decided on 25.06.04 with warning and deposit the total loss vide Govt. orders endst No 8/63/B&R(E)-3/2001 dated 24.10.2006. Accordingly Sh R.C Pahwa, EE (Retd) was directed to deposit an amount of Rs 23950/- vide No. 575/IC2 dated 23.03.05 but Sh. R.C Pahwa, E.E. (Retd) vide his representation dated 04.04.05 has requested that this amount may be deducted from his gratuity. Hence as per this case, an amount of Rs 23950/- was deducted from gratuity of Sh R.C Pahwa, EE (Retd).</i>
<i>37-IC-II-R-01 U/R 8 of the Haryana Civil Service (P&A) Rule 1987</i>	<i>Case was decided on 17.10.06 with punishment of Censure vide Govt. orders Endst No.8/63/B&R(E)-3/2001 dated 24.10.2006.</i>
<i>207-IC-II-R-01 U/R 7 of the Haryana Civil Service (P&A) Rule 1987</i>	<i>In this case, charge sheet under rule 7 was issued to Sh R.C Pahwa, EE (Retd) alongwith Sh Phool Singh SDE (Retd). But as per their date of retirements i.e. 31.12.2003 and 31.03.2004 respectively, Govt. has observed that period of events pertains to more than four years. Accordingly a letter has been received from Govt. vide orders No 8/53/2006-3B&R(E) dated 14.06.06 in which it has been decided by the Govt. that the loss caused to State Exchequer on account of sub stand work of lying of</i>



	<i>precise cement concrete block (1,2,4) in Km 1.01 to 1.31 on digal beri Jhajgarh road amounts to Rs 6,73,058. The recovery from the delinquents may be made by filing a civil suit in the Hon'ble Court. Out of this amount, a proportionate loss amounting to Rs 58499/- comes out in respect of Sh R.C. Pahwa, EE (Retd) and this office had sent the case to Govt. for releasing sanction to release DCRG after withholding the amount of Rs 58499/- vide this office Memo No 276/AC dated 03.03.2010.</i> <i>Accordingly Govt. has issued sanction vide Govt. memo no 3/99/2008-1B&R(E-II) dated 13.04.2010. Later on Govt. has decided to release the balance amount of Sh. R.C Pahwa, E.E(Retd.) after withholding total recoverable amount and take further action accordingly vide Govt. letter No. 8/105/2004-3 B&R(E) dt.2.6.2010. Further a Vigilance Case inquiry No. 40 dated 19.8.1986 has also been filed by Govt. vide its orders No.8/6/2010-1 B&R(E) dated 7.7.2010. Accordingly DCRG has been issued on dated 5.8.2010.</i> <i>In the meantime, a civil suit has been filed by EE Jhajjar in the court of Fakhruddin, Civil Judge (Sr Divn) Jhajjar vide Civil Suit No 273 of 2007 which was dismissed alongwith cost on dated 01.11.2013. Thereafter an appeal has also been filed in the court of Sh. Lal Chand, Additional District Judge, Jhajjar vide Civil Appeal No 10 (RBT) of 2013/2016 which was dismissed alongwith cost on dated 27.10.2016. At last DCRG amounting to Rs 58499/- was released to Sh.R.C Pahwa, EE (Retd) on dated 20.08.2019.</i> <i>It is also submitted that a CW No 12812 of 2008 has also been filed by Sh. R.C Pahwa, E.E (Retd) in Hon'ble High Court which was dismissed vide Hon'ble High Court orders dated 11.09.2009.</i>
<i>17-IC-II-R-05</i> <i>U/R 7 of the Haryana Civil Service (P&A) Rule 1987</i>	<i>Case was decided on 02.07.08 with punishment of recovery of Rs 55968.34 paise vide Govt. orders Endst. No. 8/5/06-3B&R(E) dated 02.07.08.</i>
<i>105-IC-II-K-98</i>	<i>Case was decided on 04.02.04 with punishment of Censure vide Govt. orders</i>



U/R 8 of the Haryana Civil Service (P&A) Rule 1987	Endst. No8/12/98-1B&R(E) dated 04.02.04.
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Whereas, in these charge sheets following recovering were imposed upon Sh. R.C. Pahwa, E.E. (Retd.) from time to time :-

Case No.	Amount of Recovery	Remarks
Rent Roll Recovery	32225.00	Initially a DCRG amount Rs. 169326/- (160325 + 9001) has been released to Sh. R.C Pahwa, E.E vide A.G Authority dated 05.08.2010 & 27.02.2013 after withholding an amount of Rs 180674 including an amount of Rs. 58499/-.
Cost of PWD Books	32.00	
50-IC-II-G-98 U/R 7	23950.00	
111-IC-I-A-98 U/R 7	10000.00	Later on another DCRG amounting to Rs. 58499/- has also been released vide AG Authority dated 20.08.2019 after decision of court case.
17-IC-II-R-05 U/R 7	55968.34	Out of total amount of DCRG i.e. Rs 3,50,000/-, an amount of Rs 1,22,175 was recovered from his gratuity of Sh R.C Pahwa, E.E (Retd) due to recovery imposed upon him. Hence total Gratuity paid to Sh R.C Pahwa, EE (Retd) is Rs.2,27,825/-.
Total (A)	122175.34	
207-IC-II-R-01 U/R 7	58499.00	
Total (B)	180674.34	

Para 5(ii) of F.D. Instruction No.1/2(152)01-2FR-II dated 20.2.2002 is reproduced as under :

"In case of an employee against whom disciplinary proceedings are pending at the time of retirement, and the said employee is held guilty, partially or fully, of the charges leveled against him, no interest would be payable on the retiral benefits in his case till a period of three months from the date of final decision on the disciplinary proceedings. If the delay in these cases is beyond a period of 3 months of the date of decision on disciplinary proceedings and the employee concerned has completed the formalities on his part., interest on such dues may also be allowed from the date of decision of disciplinary proceedings till the date of payment."



In this case there were 6 charge sheets pending against Sh R.C Pahwa, E.E. (Retd.) at the time of retirement which were decided from time to time and various recoveries were also imposed upon Sh R.C Pahwa, E.E. (Retd.) as per details given above. The matter was examined in the O/o Engineer-in-Chief, PWD (B&R), Haryana, Chandigarh. On the basis of above FD instructions and perusal of the official record, the representation dated 24.09.2019 (Annexure P-8) of Sh. R.C. Pahwa, E.E. (Retd.) is found devoid of merits and Sh. R.C. Pahwa, E.E. (Retd.) is not eligible for interest on the retiral benefits of Gratuity due to pendency of various charge sheets under Rule 7 at the time of retirement.

Therefore, in view of the above facts, the claim of the petitioner i.e. Sh. R.C. Pahwa, EE (Retd.) submitted through representation dated 24.09.2019 (Annexure P-8) is hereby rejected

I, therefore, order accordingly.”

8. A perusal of the order reproduced above would show that as many as 06 charge-sheets were pending against the petitioner when he was retired from service on attaining the age of superannuation. The said charge-sheets have been concluded with the issuance of various punishments as have been reproduced above. The retiral dues of the petitioner have been released after adjusting the recoveries ordered against him. There was no intentional delay on the part of the respondents in releasing the retiral benefits to the petitioner as the same have been released on the conclusion of charge-sheets pending against him. Therefore, the petitioner cannot be held to be entitled for grant of interest on the delayed payment of retiral dues. The grant of interest



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would amount to giving premium to the misconduct of the petitioner who was issued various charge-sheets.

9. In view of the above, finding no merit in the present petition, the same is hereby dismissed.

16.12.2024
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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No